

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22505
Docket Number CL-22427

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(Norfolk and Western Railway

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8578) that:

1. Carrier violated the provisions of the April 1, 1973 Master Agreement in general, Rules 27 and 42 in particular, when on September 9, 1977 they arbitrarily and capriciously dismissed Mr. R. L. Brown.

2. Carrier's action was unjust, unreasonable and an abuse of Carrier's discretion.

3. Carrier shall reinstate Mr. Brown, with seniority and all other rights and privileges unimpaired and pay him for all lost time.

OPINION OF BOARD: The fact situation in this case is not in dispute. In fact, claimant readily admits that he released the train in question from the siding in question contrary to the specific instructions which he had received from the Terminal Trainmaster. Therefore, the only issue for us to decide in this case concerns the severity of the discipline which was imposed.

The record reveals that claimant was previously dismissed from Carrier's service in 1975 for permitting a yard crew to pass a Stop and Stay signal without proper authority. This Board, in Award No. 21512, considered "claimant's many years of service" and reinstated him to service in April, 1977 with the hope that he would correct his improper work practices. Less than one (1) month following his reinstatement to service, he admittedly disregarded his supervisor's instructions and permitted an improper train movement to occur.

On the basis of the total record in this case, we cannot say that Carrier's action was arbitrary or capricious. The claim for reinstatement must be and is denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Paulsen
Executive Secretary

Dated at Chicago, Illinois, this 31st day of August 1979.

